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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Damian Ayarzagotia,
10 Plaintiff,

No. CV 23-00244-PHX-JAT (JFM)

11 v.

ORDER

12 CoreCivic Corporation,
13 Defendant.
14

15 Plaintiff Damian Ayarzagotia, who is confined in the Saguaro Correctional Center
16 (SCC) in Eloy, Arizona, has filed a pro se civil rights Complaint pursuant to 42 U.S.C.
17 § 1983 (Doc. 1), an Application to Proceed In Forma Pauperis (Doc. 2), and a Motion for
18 Inclusion of Exhibits as Evidence (Doc. 4). The Court will grant the Application to
19 Proceed, deny the Motion, and dismiss the Complaint with leave to amend.

20 **I. Application to Proceed In Forma Pauperis and Filing Fee**

21 The Court will grant Plaintiff's Application to Proceed In Forma Pauperis. 28
22 U.S.C. § 1915(a). Plaintiff must pay the statutory filing fee of \$350.00. 28 U.S.C.
23 § 1915(b)(1). The Court will not assess an initial partial filing fee. *Id.* The statutory filing
24 fee will be collected monthly in payments of 20% of the previous month's income credited
25 to Plaintiff's trust account each time the amount in the account exceeds \$10.00. 28 U.S.C.
26 § 1915(b)(2). The Court will enter a separate Order requiring the appropriate government
27 agency to collect and forward the fees according to the statutory formula.

28

II. Statutory Screening of Prisoner Complaints

The Court is required to screen complaints brought by prisoners seeking relief against a governmental entity or an officer or an employee of a governmental entity. 28 U.S.C. § 1915A(a). The Court must dismiss a complaint or portion thereof if a plaintiff has raised claims that are legally frivolous or malicious, that fail to state a claim upon which relief may be granted, or that seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1)–(2).

A pleading must contain a “short and plain statement of the claim *showing* that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2) (emphasis added). While Rule 8 does not demand detailed factual allegations, “it demands more than an unadorned, the-defendant-unlawfully-harmed-me accusation.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). “Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice.” *Id.*

“[A] complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Id.* (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). A claim is plausible “when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* “Determining whether a complaint states a plausible claim for relief [is] . . . a context-specific task that requires the reviewing court to draw on its judicial experience and common sense.” *Id.* at 679. Thus, although a plaintiff’s specific factual allegations may be consistent with a constitutional claim, a court must assess whether there are other “more likely explanations” for a defendant’s conduct. *Id.* at 681.

But as the United States Court of Appeals for the Ninth Circuit has instructed, courts must “continue to construe *pro se* filings liberally.” *Hebbe v. Pliler*, 627 F.3d 338, 342 (9th Cir. 2010). A “complaint [filed by a *pro se* prisoner] ‘must be held to less stringent standards than formal pleadings drafted by lawyers.’” *Id.* (quoting *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (per curiam)).

If the Court determines that a pleading could be cured by the allegation of other

1 facts, a pro se litigant is entitled to an opportunity to amend a complaint before dismissal
2 of the action. *See Lopez v. Smith*, 203 F.3d 1122, 1127-29 (9th Cir. 2000) (en banc).
3 Plaintiff's Complaint will be dismissed for failure to state a claim, but because it may
4 possibly be amended to state a claim, the Court will dismiss it with leave to amend.

5 **III. Complaint**

6 In his three-count Complaint, Plaintiff names CoreCivic Corporation ("CoreCivic")
7 as the sole Defendant. Plaintiff asserts claims of excessive force, denial of access to the
8 courts, and denial of basic necessities. He seeks monetary and injunctive relief, as well as
9 his costs and fees for this case.

10 In Count One, Plaintiff alleges the following:

11 On October 21, 2022, Correctional Counselor Baker came to Plaintiff's cell to serve
12 him with a disciplinary report. Baker opened the food trap to give the report to Plaintiff,
13 and Plaintiff "stuck [his] arms out to prevent [the trap] from being closed." Plaintiff tried
14 to "grab the papers out of [Baker's] hands" and told Baker that he would not "cooperate
15 with the process" or sign the report. Baker "undid the strap on his can [of mace]" but did
16 not draw it out. Plaintiff adjusted his arms to "withdraw" them and walk away from the
17 door. Baker removed the can of mace and sprayed Plaintiff with the mace. Plaintiff quickly
18 stood up, moved away from the door, and put his back to the door. As he did so, he felt a
19 burst of spray hit him in the back. After Baker stopped spraying, Plaintiff turned around
20 to ask Baker why he had sprayed Plaintiff, at which point Baker sprayed Plaintiff a second
21 time with a short burst that hit Plaintiff in the face. Baker slammed shut the food trap and
22 reported that he had deployed his spray. Shortly after the incident, Plaintiff asked Baker
23 why he had sprayed Plaintiff. Baker responded that he "heard a sound like someone was
24 spitting" and assumed it was Plaintiff spitting on him. Plaintiff states he did not suffer any
25 physical injury, but he had "constant burning all over [his] body due to not being allowed
26 to properly and completely decontaminate."

27 In Count Two, Plaintiff alleges the following:

28 On September 2, 2022, Plaintiff requested a certified trust account statement

1 because he had requested copies of documents from the Ada County Court Clerk,¹ and the
2 Clerk had requested proof that Plaintiff was indigent. The inmate accounts clerk asked to
3 see the letter Plaintiff had received from the Ada County Court. Although he was not
4 required to do so because it was a legal matter, Plaintiff sent the letter to the inmate
5 accounts clerk. Plaintiff received a response stating that Idaho inmate accounts had
6 reported that Plaintiff was not indigent and denied his request. Plaintiff submitted a
7 grievance, which was denied. Plaintiff then submitted an appeal and apparently received
8 a response that stated that he could “only make the request when it is attached to an In
9 Forma Pauperis application.” When Plaintiff made the initial request on September 2,
10 2022, he was indigent. The records Plaintiff requested from Ada County were “going to
11 be used as a part of an active criminal appeal in the Idaho Supreme Court,” in which
12 Plaintiff is representing himself. As his injury, Plaintiff alleges he was unable to submit
13 proof of his indigent status and was unable to obtain the records he had requested.

14 In Count Three, Plaintiff alleges the following:

15 Plaintiff was ordered to clean his cell and keep it clean, but he could not obtain any
16 cleaning supplies to comply with those orders. The restrictive housing unit at SCC does
17 not provide proper cleaning supplies for prisoners to maintain the cleanliness and sanitation
18 of their cells. Prisoners are not allowed rags, “handbrooms,” toilet brushes, or dustpans;
19 only a chemical bottle is provided. The chief of unit management told Plaintiff that he
20 could use an old t-shirt to clean his cell. When Plaintiff requested cleaning supplies, he
21 was told that brooms were not allowed inside the cells, even though he had requested a
22 “handbroom”—a smaller item that is “less of a security issue.” Plaintiff states that he
23 suffered no physical injury, but “someone could get sick and/or get HEP A from having to
24 use an old sock or personal wash cloth to wipe out the toilet,” which is unsanitary. Plaintiff
25 also asserts that if cells are not properly cleaned, “this could cause mental health issues as
26 well.”

27
28 ¹ Plaintiff is an Idaho prisoner. See <https://www.idoc.idaho.gov/content/prisons/resident-client-search/details/66184> (last accessed Feb. 9, 2023).

1 **IV. Failure to State a Claim**

2 To state a claim under § 1983 against a private entity performing a traditional public
 3 function, such as operating a prison, a plaintiff must allege facts to support that his
 4 constitutional rights were violated as a result of a policy, decision, or custom promulgated
 5 or endorsed by the private entity. *See Tsao v. Desert Palace, Inc.*, 698 F.3d 1128, 1138-
 6 39 (9th Cir. 2012); *Buckner v. Toro*, 116 F.3d 450, 452 (11th Cir. 1997) (per curiam). A
 7 plaintiff must allege the specific policy or custom and how it violated his constitutional
 8 rights. A private entity is not liable merely because it employs persons who allegedly
 9 violated a plaintiff's constitutional rights. *See Tsao*, 698 F.3d at 1139; *Buckner*, 116 F.3d
 10 at 452.

11 Plaintiff does not allege that any of the conduct described in the Complaint was the
 12 result of a specific policy or custom of Defendant CoreCivic. Thus, the Court will dismiss
 13 without prejudice Defendant CoreCivic. Plaintiff has not named any other Defendants,
 14 and he therefore fails to state a claim in the Complaint.

15 **V. Leave to Amend**

16 Within 30 days, Plaintiff may submit a first amended complaint to cure the
 17 deficiencies outlined above. The Clerk of Court will mail Plaintiff a court-approved form
 18 to use for filing a first amended complaint. If Plaintiff fails to use the court-approved form,
 19 the Court may strike the amended complaint and dismiss this action without further notice
 20 to Plaintiff.

21 Plaintiff must clearly designate on the face of the document that it is the "First
 22 Amended Complaint." The first amended complaint must be retyped or rewritten in its
 23 entirety on the court-approved form and may not incorporate any part of the original
 24 Complaint by reference. Plaintiff may include only one claim per count.

25 A first amended complaint supersedes the original Complaint. *Ferdik v. Bonzelet*,
 26 963 F.2d 1258, 1262 (9th Cir. 1992); *Hal Roach Studios v. Richard Feiner & Co.*, 896 F.2d
 27 1542, 1546 (9th Cir. 1990). After amendment, the Court will treat the original Complaint
 28 as nonexistent. *Ferdik*, 963 F.2d at 1262. Any cause of action that was raised in the

original Complaint and that was voluntarily dismissed or was dismissed without prejudice is waived if it is not alleged in a first amended complaint. *Lacey v. Maricopa County*, 693 F.3d 896, 928 (9th Cir. 2012) (en banc).

If Plaintiff files an amended complaint, Plaintiff must write short, plain statements telling the Court: (1) the constitutional right Plaintiff believes was violated; (2) the name of the Defendant who violated the right; (3) exactly what that Defendant did or failed to do; (4) how the action or inaction of that Defendant is connected to the violation of Plaintiff's constitutional right; and (5) what specific injury Plaintiff suffered because of that Defendant's conduct. *See Rizzo v. Goode*, 423 U.S. 362, 371-72, 377 (1976).

Plaintiff must repeat this process for each person he names as a Defendant. If Plaintiff fails to affirmatively link the conduct of each named Defendant with the specific injury suffered by Plaintiff, the allegations against that Defendant will be dismissed for failure to state a claim. **Conclusory allegations that a Defendant or group of Defendants has violated a constitutional right are not acceptable and will be dismissed.**

Plaintiff should be aware that when a prisoner claims that prison officials violated his Eighth Amendment rights by using excessive physical force, the relevant inquiry is "whether force was applied in a good-faith effort to maintain or restore discipline, or maliciously and sadistically to cause harm." *Hudson v. McMillian*, 503 U.S. 1, 7 (1992). However, the Supreme Court has made it clear that not every use of physical force violates the Eighth Amendment:

That is not to say that every malevolent touch by a prison guard gives rise to a federal cause of action. *See Johnson v. Glick*, 481 F.2d [1028, 1033 (2nd Cir. 1973)] ("Not every push or shove, even if it may later seem unnecessary in the peace of a judge's chambers, violates a prisoner's constitutional rights").

Id. at 9.

In addition, the right of meaningful access to the courts prohibits officials from actively interfering with prisoners' attempts to prepare or file legal documents. *Lewis v.*

1 *Casey*, 518 U.S. 343, 350 (1996). The right of access to the courts is only a right to bring
2 petitions or complaints to federal court and not a right to discover such claims or even to
3 litigate them effectively once filed with a court. *Id.* at 354. The right “guarantees no
4 particular methodology but rather the conferral of a capability—the capability of bringing
5 contemplated challenges to sentences or conditions of confinement before the courts.” *Id.*
6 at 356.

7 As a matter of standing, for an access-to-courts claim, a plaintiff must show that he
8 suffered an “actual injury” with respect to contemplated litigation. *Id.* at 349. To show
9 actual injury with respect to contemplated litigation, the plaintiff must demonstrate that the
10 defendants’ conduct frustrated or impeded him from bringing to court a nonfrivolous claim
11 that he wished to present. *Id.* at 352-53.

12 “[T]he injury requirement is not satisfied by just any type of frustrated legal claim.”
13 *Id.* at 354. The right of access to the courts “does not guarantee inmates the wherewithal
14 to transform themselves into litigating engines capable of filing everything from
15 shareholder derivative actions to slip-and-fall claims.” *Id.* at 355. The nonfrivolous claim
16 must be a direct or collateral attack on the inmate’s sentence or a challenge to the conditions
17 of his confinement. *Id.* “Impairment of any *other* litigating capacity is simply one of the
18 incidental (and perfectly constitutional) consequences of conviction and incarceration.” *Id.*
19 (emphasis in original).

20 Finally, Plaintiff should be aware that to state an Eighth Amendment conditions-of-
21 confinement claim, he must meet a two-part test. “First, the alleged constitutional
22 deprivation must be, objectively, sufficiently serious” such that the “official’s act or
23 omission must result in the denial of the minimal civilized measure of life’s necessities.”
24 *Farmer v. Brennan*, 511 U.S. 825, 834 (1994) (internal quotations omitted). Second, the
25 prison official must have a “sufficiently culpable state of mind,” i.e., he must act with
26 “deliberate indifference to inmate health or safety.” *Id.* (internal quotations omitted).
27 Deliberate indifference is a higher standard than negligence or lack of ordinary due care
28 for the prisoner’s safety. *Id.* at 835. In defining “deliberate indifference” in this context,

1 the Supreme Court has imposed a subjective test: “the official must both be aware of facts
 2 from which the inference could be drawn that a substantial risk of serious harm exists, *and*
 3 he must also draw the inference.” *Id.* at 837 (emphasis added).

4 **VI. Motion for Inclusion of Exhibits as Evidence**

5 In his Motion, Plaintiff asks the Court to admit several exhibits into the record as
 6 evidence of his attempts to resolve the issues described in the Complaint and “other related
 7 items.” Plaintiff’s Motion is premature. As discussed above, the Court will dismiss the
 8 Complaint for failure to state a claim. If Plaintiff files an amended complaint, the Court
 9 will screen it. If the Court determines that Plaintiff has stated a claim against one or more
 10 Defendants, the Court will order service on Defendant(s). After one or more Defendants
 11 are served, the Court will issue a scheduling order, including deadlines for discovery.
 12 There is no need at this time to admit any exhibits into the record. The Court will therefore
 13 deny Plaintiff’s Motion.

14 **VII. Warnings**

15 **A. Release**

16 If Plaintiff is released while this case remains pending, and the filing fee has not
 17 been paid in full, Plaintiff must, within 30 days of his release, either (1) notify the Court
 18 that he intends to pay the unpaid balance of his filing fee within 120 days of his release or
 19 (2) file a non-prisoner application to proceed in forma pauperis. Failure to comply may
 20 result in dismissal of this action.

21 **B. Address Changes**

22 Plaintiff must file and serve a notice of a change of address in accordance with Rule
 23 83.3(d) of the Local Rules of Civil Procedure. Plaintiff must not include a motion for other
 24 relief with a notice of change of address. Failure to comply may result in dismissal of this
 25 action.

26 **C. Possible “Strike”**

27 Because the Complaint has been dismissed for failure to state a claim, if Plaintiff
 28 fails to file an amended complaint correcting the deficiencies identified in this Order, the

dismissal may count as a “strike” under the “3-strikes” provision of 28 U.S.C. § 1915(g). Under the 3-strikes provision, a prisoner may not bring a civil action or appeal a civil judgment in forma pauperis under 28 U.S.C. § 1915 “if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

D. Possible Dismissal

If Plaintiff fails to timely comply with every provision of this Order, including these warnings, the Court may dismiss this action without further notice. *See Ferdik*, 963 F.2d at 1260-61 (a district court may dismiss an action for failure to comply with any order of the Court).

IT IS ORDERED:

(1) Plaintiff’s Application to Proceed In Forma Pauperis (Doc. 2) is **granted**.

(2) As required by the accompanying Order to the appropriate government agency, Plaintiff must pay the \$350.00 filing fee and is not assessed an initial partial filing fee.

(3) The Complaint (Doc. 1) is **dismissed** for failure to state a claim. Plaintiff has **30 days** from the date this Order is filed to file a first amended complaint in compliance with this Order.

(4) If Plaintiff fails to file an amended complaint within 30 days, the Clerk of Court must, without further notice, enter a judgment of dismissal of this action with prejudice that states that the dismissal may count as a “strike” under 28 U.S.C. § 1915(g) and deny any pending unrelated motions as moot.

(5) Plaintiff’s Motion for Inclusion of Exhibits as Evidence (Doc. 4) is **denied**.

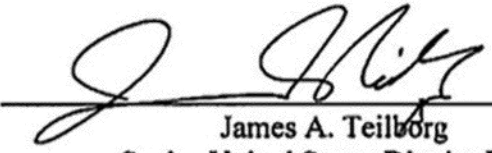
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1 (6) The Clerk of Court must mail Plaintiff a court-approved form for filing a
2 civil rights complaint by a prisoner.

3 Dated this 16th day of February, 2023.

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8 James A. Teilborg
9 Senior United States District Judge
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**Instructions for a Prisoner Filing a Civil Rights Complaint
in the United States District Court for the District of Arizona**

1. Who May Use This Form. The civil rights complaint form is designed to help incarcerated persons prepare a complaint seeking relief for a violation of their federal civil rights. These complaints typically concern, but are not limited to, conditions of confinement. **This form should not be used to challenge your conviction or sentence.** If you want to challenge a state conviction or sentence, you should file a petition under 28 U.S.C. § 2254 for a writ of habeas corpus by a person in state custody. If you want to challenge a federal conviction or sentence, you should file a motion under 28 U.S.C. § 2255 to vacate sentence in the federal court that entered the judgment.
2. The Form. **Local Rule of Civil Procedure (LRCiv) 3.4 provides that complaints by incarcerated persons must be filed on the court-approved form.** The form must be typed or neatly handwritten. The form must be completely filled in to the extent applicable. All questions must be answered clearly and concisely in the appropriate space on the form. If needed, you may attach additional pages, **but no more than fifteen additional pages**, of standard letter-sized paper. You must identify which part of the complaint is being continued and number all pages. If you do not fill out the form properly, you will be asked to submit additional or corrected information, which may delay the processing of your action. You do not need to cite law.
3. Your Signature. You must tell the truth and sign the form. If you make a false statement of a material fact, you may be prosecuted for perjury.
4. The Filing and Administrative Fees. The total fees for this action are \$402.00 (\$350.00 filing fee plus \$52.00 administrative fee). If you are unable to immediately pay the fees, you may request leave to proceed in forma pauperis. Please review the “Information for Prisoners Seeking Leave to Proceed with a (Non-Habeas) Civil Action in Federal Court In Forma Pauperis Pursuant to 28 U.S.C. § 1915” for additional instructions.
5. Original and Judge’s Copy. You must send an **original plus one copy** of your complaint and of any other documents submitted to the Court. You must send one additional copy to the Court if you wish to have a file-stamped copy of the document returned to you. All copies must be identical to the original. Copies may be legibly handwritten. **This section does not apply to inmates housed at an Arizona Department of Corrections facility that participates in electronic filing.**
6. Where to File. You should file your complaint in the division **where you were confined when your rights were allegedly violated.** See LRCiv 5.1(a) and 77.1(a). If you were confined in Maricopa, Pinal, Yuma, La Paz, or Gila County, file in the Phoenix Division. If you were confined in Apache, Navajo, Coconino, Mohave, or Yavapai County, file in the Prescott Division. If you were confined in Pima, Cochise, Santa Cruz, Graham, or Greenlee County, file in the Tucson Division. **Mail the original and one copy of the complaint with the \$402 filing and administrative fees or the application to proceed in forma pauperis to:**

Phoenix & Prescott Divisions:
U.S. District Court Clerk
U.S. Courthouse, Suite 130
401 West Washington Street, SPC 10
Phoenix, Arizona 85003-2119

OR

Tucson Division:
U.S. District Court Clerk
U.S. Courthouse, Suite 1500
405 West Congress Street
Tucson, Arizona 85701-5010

7. Change of Address. You must immediately notify the Court and the defendants in writing of any change in your mailing address. **Failure to notify the Court of any change in your mailing address may result in the dismissal of your case.**

8. Certificate of Service. You must furnish the defendants with a copy of any document you submit to the Court (except the initial complaint and application to proceed in forma pauperis). Each original document (except the initial complaint and application to proceed in forma pauperis) must include a certificate of service on the last page of the document stating the date a copy of the document was mailed to the defendants and the address to which it was mailed. *See Fed. R. Civ. P. 5(a), (d).* Any document received by the Court that does not include a certificate of service may be stricken. **This section does not apply to inmates housed at an Arizona Department of Corrections facility that participates in electronic filing.**

A certificate of service should be in the following form:

I hereby certify that a copy of the foregoing document was mailed
this _____ (month, day, year) to:

Name: _____

Address: _____

Attorney for Defendant(s)

(Signature)

9. Amended Complaint. If you need to change any of the information in the initial complaint, you must file an amended complaint. The amended complaint must be written on the court-approved civil rights complaint form. You may file one amended complaint without leave (permission) of Court within 21 days after serving it or within 21 days after any defendant has filed an answer, whichever is earlier. *See Fed. R. Civ. P. 15(a).* Thereafter, you must file a motion for leave to amend and lodge (submit) a proposed amended complaint. LRCiv 15.1. In addition, an amended complaint may not incorporate by reference any part of your prior complaint. LRCiv 15.1(a)(2). **Any allegations or defendants not included in the amended complaint are considered dismissed.** All amended complaints are subject to screening under the Prison Litigation Reform Act; screening your amendment will take additional processing time.

10. Exhibits. You should not submit exhibits with the complaint or amended complaint. Instead, the relevant information should be paraphrased. You should keep the exhibits to use to support or oppose a motion to dismiss, a motion for summary judgment, or at trial.

11. Letters and Motions. It is generally inappropriate to write a letter to any judge or the staff of any judge. The only appropriate way to communicate with the Court is by filing a written pleading or motion.

12. Completing the Civil Rights Complaint Form.

HEADING:

1. Your Name. Print your name, prison or inmate number, and institutional mailing address on the lines provided.
2. Defendants. If there are **four or fewer** defendants, print the name of each. If you name **more than four** defendants, print the name of the first defendant on the first line, write the words “and others” on the second line, and attach an additional page listing the names of **all** of the defendants. Insert the additional page after page 1 and number it “1-A” at the bottom.
3. Jury Demand. If you want a jury trial, you must write “JURY TRIAL DEMANDED” in the space below “CIVIL RIGHTS COMPLAINT BY A PRISONER.” Failure to do so may result in the loss of the right to a jury trial. A jury trial is not available if you are seeking only injunctive relief.

Part A. JURISDICTION:

1. Nature of Suit. Mark whether you are filing the complaint pursuant to 42 U.S.C. § 1983 for state, county, or city defendants; “*Bivens v. Six Unknown Federal Narcotics Agents*” for federal defendants; or “other.” If you mark “other,” identify the source of that authority.
2. Location. Identify the institution and city where the alleged violation of your rights occurred.
3. Defendants. Print all of the requested information about each of the defendants in the spaces provided. If you are naming more than four defendants, you must provide the necessary information about each additional defendant on separate pages labeled “2-A,” “2-B,” etc., at the bottom. Insert the additional page(s) immediately behind page 2.

Part B. PREVIOUS LAWSUITS:

You must identify any other lawsuit you have filed in either state or federal court while you were a prisoner. Print all of the requested information about each lawsuit in the spaces provided. If you have filed more than three lawsuits, you must provide the necessary information about each additional lawsuit on a separate page. Label the page(s) as “2-A,” “2-B,” etc., at the bottom of the page and insert the additional page(s) immediately behind page 2.

Part C. CAUSE OF ACTION:

You must identify what rights each defendant violated. The form provides space to allege three separate counts (**one violation per count**). If you are alleging more than three counts, you must provide the necessary information about each additional count on a separate page. Number the additional pages “5-A,” “5-B,” etc., and insert them immediately behind page 5. Remember that you are limited to a total of fifteen additional pages.

1. Counts. You must identify which civil right was violated. **You may allege the violation of only one civil right per count.**
2. Issue Involved. Check the box that most closely identifies the issue involved in your claim. **You may check only one box per count.** If you check the box marked “Other,” you must identify the specific issue involved.
3. Supporting Facts. After you have identified which civil right was violated, you must state the supporting facts. Be as specific as possible. You must state what each individual defendant did to violate your rights. If there is more than one defendant, you must identify which defendant did what act. You also should state the date(s) on which the act(s) occurred, if possible.
4. Injury. State precisely how you were injured by the alleged violation of your rights.
5. Administrative Remedies. You must exhaust any available administrative remedies before you file a civil rights complaint. *See* 42 U.S.C. § 1997e. Consequently, you should disclose whether you have exhausted the inmate grievance procedures or administrative appeals for each count in your complaint. If the grievance procedures were not available for any of your counts, fully explain why on the lines provided.

Part D. REQUEST FOR RELIEF:

Print the relief you are seeking in the space provided.

SIGNATURE:

You must sign your name and print the date you signed the complaint. Failure to sign the complaint will delay the processing of your action. Unless you are an attorney, you may not bring an action on behalf of anyone but yourself.

FINAL NOTE

You should follow these instructions carefully. Failure to do so may result in your complaint being stricken or dismissed. All questions must be answered concisely in the proper space on the form. If you need more space, you may attach no more than fifteen additional pages. But the form must be completely filled in to the extent applicable. If you attach additional pages, be sure to identify which section of the complaint is being continued and number the pages.

Name and Prisoner/Booking Number

Place of Confinement

Mailing Address

City, State, Zip Code

(Failure to notify the Court of your change of address may result in dismissal of this action.)

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

_____,
(Full Name of Plaintiff)

Plaintiff,

v.

(1) _____,
(Full Name of Defendant)

(2) _____,

(3) _____,

(4) _____,

Defendant(s).

☐ Check if there are additional Defendants and attach page 1-A listing them.

CASE NO. _____
(To be supplied by the Clerk)

**CIVIL RIGHTS COMPLAINT
BY A PRISONER**

- ☐ Original Complaint
☐ First Amended Complaint
☐ Second Amended Complaint

A. JURISDICTION

1. This Court has jurisdiction over this action pursuant to:

☐ 28 U.S.C. § 1343(a); 42 U.S.C. § 1983

☐ 28 U.S.C. § 1331; *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971).

☐ Other: _____.

2. Institution/city where violation occurred: _____.

B. DEFENDANTS

1. Name of first Defendant: _____. The first Defendant is employed as: _____ at _____.

(Position and Title)
(Institution)
2. Name of second Defendant: _____. The second Defendant is employed as: _____ at _____.

(Position and Title)
(Institution)
3. Name of third Defendant: _____. The third Defendant is employed as: _____ at _____.

(Position and Title)
(Institution)
4. Name of fourth Defendant: _____. The fourth Defendant is employed as: _____ at _____.

(Position and Title)
(Institution)

If you name more than four Defendants, answer the questions listed above for each additional Defendant on a separate page.

C. PREVIOUS LAWSUITS

1. Have you filed any other lawsuits while you were a prisoner? ☐ Yes ☐ No
2. If yes, how many lawsuits have you filed? _____. Describe the previous lawsuits:
 - a. First prior lawsuit:
 1. Parties: _____ v. _____
 2. Court and case number: _____
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) _____
 - b. Second prior lawsuit:
 1. Parties: _____ v. _____
 2. Court and case number: _____
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) _____
 - c. Third prior lawsuit:
 1. Parties: _____ v. _____
 2. Court and case number: _____
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) _____

If you filed more than three lawsuits, answer the questions listed above for each additional lawsuit on a separate page.

COUNT II

1. State the constitutional or other federal civil right that was violated: _____

2. **Count II.** Identify the issue involved. Check **only one**. State additional issues in separate counts.
- | | | | |
|--|---|---|---------------------------------------|
| <input type="checkbox"/> Basic necessities | <input type="checkbox"/> Mail | <input type="checkbox"/> Access to the court | <input type="checkbox"/> Medical care |
| <input type="checkbox"/> Disciplinary proceedings | <input type="checkbox"/> Property | <input type="checkbox"/> Exercise of religion | <input type="checkbox"/> Retaliation |
| <input type="checkbox"/> Excessive force by an officer | <input type="checkbox"/> Threat to safety | <input type="checkbox"/> Other: _____ | |

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Count II. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

- ## 5. Administrative Remedies.

- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☐ Yes ☐ No
- b. Did you submit a request for administrative relief on Count II? ☐ Yes ☐ No
- c. Did you appeal your request for relief on Count II to the highest level? ☐ Yes ☐ No
- d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not.

COUNT III

1. State the constitutional or other federal civil right that was violated: _____

2. **Count III.** Identify the issue involved. Check **only one**. State additional issues in separate counts.
- | | | | |
|--|---|---|---------------------------------------|
| <input type="checkbox"/> Basic necessities | <input type="checkbox"/> Mail | <input type="checkbox"/> Access to the court | <input type="checkbox"/> Medical care |
| <input type="checkbox"/> Disciplinary proceedings | <input type="checkbox"/> Property | <input type="checkbox"/> Exercise of religion | <input type="checkbox"/> Retaliation |
| <input type="checkbox"/> Excessive force by an officer | <input type="checkbox"/> Threat to safety | <input type="checkbox"/> Other: _____ | |

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Count III. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

- ## 5. Administrative Remedies.

- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☐ Yes ☐ No
- b. Did you submit a request for administrative relief on Count III? ☐ Yes ☐ No
- c. Did you appeal your request for relief on Count III to the highest level? ☐ Yes ☐ No
- d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. _____

If you assert more than three Counts, answer the questions listed above for each additional Count on a separate page.

E. REQUEST FOR RELIEF

State the relief you are seeking:

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____
DATE

SIGNATURE OF PLAINTIFF

(Name and title of paralegal, legal assistant, or
other person who helped prepare this complaint)

(Signature of attorney, if any)

(Attorney's address & telephone number)

ADDITIONAL PAGES

All questions must be answered concisely in the proper space on the form. If you need more space, you may attach no more than fifteen additional pages. But the form must be completely filled in to the extent applicable. If you attach additional pages, be sure to identify which section of the complaint is being continued and number all pages.